

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**SEARCH MARKETING GROUP, INC. et
al.,**

Plaintiff,

v.

JUNK A CAR, INC. et al.,

Defendant.

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Civil Action No. 17-1840 (JMV)

**MEMORANDUM OPINION
AND ORDER**

CLARK, Magistrate Judge

Currently pending before the Court are Defendants' motions for a more definite statement [ECF No. 4], to dismiss [ECF Nos. 14, 23], and to stay discovery [ECF Nos. 26, 29, 30]. Plaintiffs oppose Defendants' motions [ECF Nos. 11, 18, 24, 31] and Defendants have replied [ECF Nos. 15, 22, 25, 32]. The Court has reviewed and considered the parties' submissions pursuant to Fed. R. Civ. P. 78 and L. Civ. R. 78.1. For the reasons set forth more fully below, Defendants' motion for a more definite statement is **GRANTED**, and all motions to dismiss and to stay discovery are **TERMINATED**.

Defendants request that this Court issue an order requiring Plaintiffs to file the RICO case statement as allowed by the Local Civil Rule 16.1(b)(4) prior to Defendant's filing their responsive pleading. *See* Def.s' Mot. at 1, ECF No. 4. Defendants argue that Plaintiffs' Complaint is devoid of details that would be necessary to adequately analyze the basis of Plaintiffs' RICO claims against each individual defendant as well as the defendants in the aggregate. *Id.* In response, Plaintiffs contend that the Complaint must only sufficiently describe the circumstances of the

alleged fraud in order to place Defendants on notice of the precise misconduct they are charged. *See* Pl.s' Br. Opp'n at 4, ECF No. 11. Plaintiffs further argue that the Complaint contains detailed factual allegations sufficient to allow the moving Defendants to analyze the basis of Plaintiffs' RICO claims and file responsive pleadings. *Id.*

The Court notes that specificity is imperative in this matter, both because Plaintiffs' fraud allegations implicate the heightened pleading standard of Rule 9(b) and because the RICO statute itself requires specificity, particularly in light of the heavy penalties imposed upon an unsuccessful RICO defendant. *See Grant v. Turner*, No. CIV.A. 09-2381 GEB, 2010 WL 4004719, at *4 (D.N.J. Oct. 12, 2010).

Therefore, the Court will terminate the motions to dismiss and exercise its authority pursuant to Local Civil Rule 16.1(b)(4) to require that Plaintiffs file a RICO Case Statement in the form set forth in Appendix O to the Local Civil Rules. This statement "is equivalent to a supplemental pleading which shall include the facts Plaintiffs are relying upon to initiate this RICO complaint as a result of the 'reasonable inquiry' standard required by Fed.R.Civ.P. 11." L. Civ. R., App. O. The RICO Case Statement is "designed to aid plaintiffs in framing their claims with particularity sufficient for the requirements of the RICO statute." *Northland Ins. Co. v. Shell Oil Co.*, 930 F.Supp. 1069, 1073 (D.N.J.1996).

To ensure that these issues are resolved in a timely manner and to avoid any need for the filing of redundant motion papers on the same issues, the Court will set a schedule for submission of the RICO Case Statement and renewed motion briefing. Plaintiffs shall submit their RICO Case Statement no later than thirty days from the date of this memorandum opinion and order. Defendants may renew their motions to dismiss no later than thirty days thereafter, and they need only supplement their prior moving papers as to those matters materially affected by the RICO

Case Statement. Plaintiffs' opposition to Defendants' renewed motions and Defendants' subsequent reply papers must be filed in accord with Local Rule of Civil Procedure 7.1. Upon the filing of Defendants' responsive pleadings, the Court will determine how discovery in this matter shall proceed.

IT IS on this **8th** day of **November, 2017**,

ORDERED Plaintiffs are to file a RICO Case Statement pursuant to Local Civil Rule 16.1(b)(4) and Appendix O no later than **thirty (30) days** from the date of this memorandum opinion and order; and it is further

ORDERED that Defendants may renew their motions to dismiss no later than **thirty (30) days** thereafter, and they need only supplement their prior moving papers to those matters materially affected by the RICO Case Statement; and it is further

ORDERED that Plaintiffs' opposition to Defendants' renewed motions and Defendants' subsequent reply papers must be filed in accord with the Local Rules of Civil Procedure 7.1.; and it is further

ORDERED that the Clerk of Court shall **TERMINATE** the motions at [ECF Nos. 4, 14, 23, 26, 29, 30].

s/ James B. Clark, III

JAMES B. CLARK, III
United States Magistrate Judge